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10/500,763	07/06/2004	Michiel Van Der Veen	NL 020009	7160

7590 09/11/2007  
Corporate Patent Counsel  
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EXAMINER
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NALVEN, ANDREW L

ART UNIT	PAPER NUMBER
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2134

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09/11/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/500,763

Applicant(s)

VAN DER VEEN, MICHIEL

Examiner

Andrew L. Nalven

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/20/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-15 are pending.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1-11 and 14 are rejected under 35 U.S.C. 112, second paragraph**, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. **Regarding claims 1, 4, 10-11, 14**, and claims dependent therefrom, the phrases "such as," "for instance," "typically," and "preferably by means" renders the claims indefinite because it is unclear whether the limitations following the phrases are part of the claimed invention. See MPEP § 2173.05(d).
4. **With regards to claim 8**, the limitation defining that "the watermarks generated are more than two" is indefinite. It is unclear to the Examiner whether the watermarks are values greater than two or whether the intended meaning is that at least two watermarks are generated. For the remainder of this office action Examiner has interpreted the meaning to require more than two watermarks generated.
5. **With regards to claim 9**, the limitation "both keys" conflicts with the limitations of parent claim 1. Claim 1 provides for encryption keys "SK[1]....SK[2K]." Thus, referring

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to "both keys" would not be proper because claim 1 provides for more than two encryption keys.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. **Claims 11-13 are rejected under 35 U.S.C. 101** because the claims are directed towards nonstatutory subject matter. The cited claims are an example of functional descriptive material consisting of data structures and programs that impart functionality when employed as a computer component. In other words, the cited claims can be interpreted to be composed of purely software elements with no tangible element. The claimed "operational means" further does not provide the requisite tangible elements because the specification does not provide disclosure for tangible computer or processing elements. Thus, the cited claims provide no tangible computer components that work in conjunction with the functional descriptive material to impart functionality and as a result the claims are not statutory because they fail the practical application requirement of § 101 by failing to provide a useful, concrete, and tangible result (see MPEP 2106).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-5 are rejected under 35 U.S.C. 102(e)** as being unpatentable over

White et al US Patent No. 7,058,809 in view of.

8. **With regards to claims 1 and 14**, White teaches a method of generating a watermark being unique to a receiver of a multi-cast transmission of multimedia data in the form of data packets said method comprising (White, column 8 lines 34-47, column 8 line 67 – column 9 line 9, column 10 lines 28-40, each consumer has unique set of watermarks/stamps in content) transmitting from a source at least two different copies of each data packet having different watermarks (White, Figure 7, certain frames are repeated and uniquely stamped/watermarked, column 9 lines 29-51), at least a first watermark and a second watermark respectively (White, column 9 lines 40-50, stamps include ADA, LME, XRD, QEW), encrypting said copies differently (White, column 9 lines 45-50, encrypted using unique keys), preferably by means of different encryption keys (White, column 9 lines 45-50, encrypted using unique keys), providing each receiver access to only one of said two encrypted copies (White, column 10 lines 40-46, unique combination just sufficient to decrypt the content), thereby providing each receiver with an unique resulting data stream (White, column 10 lines 40-46, unique

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combination just sufficient to decrypt the content) comprising data packets having first and second watermarks (White, column 10 lines 19-27) wherein the order in which the first and second watermarks are present in the resulting stream provides the unique watermark (White, column 10 lines 28-40), and providing the data stream with a multi-bit capacity in a single layer for storing additional information (White, column 3 lines 33-50).

9. **With regards to claim 2**, White teaches the additional information is global information (White, column 3 lines 33-49, origin of the data).

10. **With regards to claim 3**, White teaches the additional information is at least one of copyright information, producer information, and owner information (White, column 3 lines 33-49, indicates copyright information, origin of the data).

11. **With regards to claim 4**, White teaches the source and the receivers are linked together by means of a distribution network such as the Internet (White, column 3 lines 50-65, Internet).

12. **With regards to claim 5**, White teaches the copy to which a receiver has access is determined by a sequence of random encryption keys that are sent prior to transmitting (White, column 10 lines 19-26, unique keys given to customer, Figure 6B, uni-casting keys and then multicasting data).

13. **With regards to claim 6**, White teaches the keys are generated prior to transmission by the source and stored in files (White, column 10 lines 19-26, Figure 6B, keys inherently must be generated and stored on a computer before they made by transmitted).

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14. **With regards to claim 7**, White teaches the watermarks are generated change with time as long as they are not identical, and the source keeps track of them (White, column 9 lines 29-40, source keeps track by storing, column 9 lines 40-50, stamps are unique).

15. **With regards to claim 8**, White teaches the watermarks generated are more than two (White, column 9 lines 40-50, 4 watermarks defined).

16. **With regards to claim 9**, White teaches an identity string derived by the source from both keys given to the receiver and the resulting steam generated (White, column 10 lines 30-40, Table 2, consumer associated with the combination of keys and stamps).

17. **With regards to claim 10**, White teaches bandwidth usage is reduced by optimizations, for instance by not watermarking all packets, for instance by watermarking last ten minutes of a movie (White, column 3 lines 26-33, column 9 lines 1-10, only watermarks redundant frames).

18. **With regards to claim 11**, White teaches a source for transmitting multimedia data to receivers of a multicast transmission, said source comprising operational means further comprising or connectable to transmitting and encryption means which together (White, column 8 lines 34-47, column 8 line 67 – column 9 line 9, column 10 lines 28-40) read data packet “i” (White, column 8 lines 61 – column 9 line 10, watermarks added to frames), create at least two watermarked copies of data packet “i” (White, column 9 lines 40-50, watermark repeated frames), get two encryption keys (White, column 9 lines 40-50, encrypted using unique keys), encrypt the watermarked copies of

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data packet (White, column 9 lines 40-50, watermarked frames are encrypted), add additional information, typically global information such as copyright using the data packets (White, column 3 lines 33-49, watermarks indicates copyright information, origin of the data), and transmit encrypted data packets together with "i" via a network to the receivers (White, column 9 lines 50-60, multicasted to customers).

19. **With regards to claim 12**, White teaches the operational means, transmitting means, and encryption means are implemented as software (White, column 4 lines 30-45).

20. **With regards to claim 13**, White teaches a receiver for receiving multimedia data comprising receiving and decrypting means (White, column 9 lines 50-65, customer receives stream) which together receive at least two packets (White, column 9 lines 50-65, customer receives stream of packets), get the decryption key for packet "i" (White, column 10 lines 19-45, gets keys from source), try to decrypt both packets with key RK (White, column 9 lines 10-25, column 10 lines 19-40, decrypts using unique set of keys), receive global information (White, column 3 lines 33-49, watermarks indicates copyright information, origin of the data), whereby only one packet will decrypt into a proper data packet (White, column 10 lines 40-46), and decode and render (White, Figure 8, Video Display).

21. **With regards to claim 15**, White teaches a source is a server (White, Figure 1 Item 104) and the receivers are clients (White, Figure 1 Item 101-1).

### **Conclusion**



22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

23. Cooper et al US PG Pub 2001/0051996 discloses a network based content distribution system.

24. Stefik et al US PG Pub 2001/0008557 discloses a system for controlling the distribution and use of rendered digital works through watermarking.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew L. Nalven whose telephone number is 571 272 3839. The examiner can normally be reached on Monday - Thursday 8-6, Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on 571 272 3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andrew Nalven

